

Surface Mining Reclamation and Enforcement, Interior

§ 736.15

upon the withdrawal of approval of an entire State program under § 733.12.

(3) The Director shall promulgate a partial Federal program for a State upon the withdrawal of approval of part of a State program under 30 CFR part 733.

(b) *Revision.* The Director may revise a Federal program for a State, if necessary to further the purposes of the Act and the regulations adopted under the Act.

(c) *Termination.* The Director shall terminate appropriate portions of a Federal program for a State, upon approval of a State program under 30 CFR parts 731 and 732 that replaces a complete or partial Federal program for that State.

[44 FR 15329, Mar. 13, 1979, as amended at 47 FR 26367, June 17, 1982]

§ 736.12 Notice, comment and hearing procedures.

Prior to the promulgation or revision of a Federal program for a State, OSMRE shall:

(a) *Federal Register notice.* Publish in the FEDERAL REGISTER a notice which:

(1) Includes the basis, purpose and substance of the proposed Federal program or revision;

(2) Offers any person an opportunity to submit written comments on the proposed Federal program or revision for a period to end no less than 30 days after the date of the notice;

(3) Offers to hold a public hearing on the proposed Federal program or revision in the affected State during the comment period if requested by any person;

(4) Gives the address of an appropriate place where any person, during normal business hours, may inspect and copy a copy of the administrative record for the proposed Federal program or revision;

(5) For an indirect revision of a Federal program, states that the affected provision of the permanent program is cross-referenced by the Federal program, and thus that the proposed permanent program revision also would revise the Federal program;

(b) *Newspaper notice.* For the initial promulgation of a Federal program for a State, publish in a newspaper of general circulation in the coal mining area

of the affected State a notice concerning the proposed rulemaking which includes the information required by paragraph (a) of this section, except that for the substance of the proposed Federal program or revision OSMRE may substitute a brief description; and

(c) *Federal agency comment.* As appropriate, solicit comments from the Administrator of the Environmental Protection Agency, the Secretary of Agriculture, and the heads of other Federal agencies concerned with or having special expertise relevant to the proposed Federal program or revision.

[52 FR 39407, Oct. 21, 1987]

§ 736.13 [Reserved]

§ 736.14 Director's decision.

(a) After considering all relevant information received under § 736.12 of this part, the Director shall decide whether to promulgate or revise a Federal program for the State.

(b) The Director shall publish the decision in the FEDERAL REGISTER, including a statement of the basis and purpose for the decision, the regulations of the Federal program for the State or revision thereof, and the effective date of the program or revision.

[44 FR 15329, Mar. 13, 1979, as amended at 52 FR 39408, Oct. 21, 1987]

§ 736.15 Implementation, enforcement, and maintenance of a Federal program.

(a) The Director shall implement, administer, enforce, and maintain a Federal program or any revision thereto not later than 30 days after a Federal program is promulgated or revised.

(b)(1) Except as provided in paragraph (b)(2) of this section, the Director shall implement the procedures and criteria of a Federal program for a State for designating lands unsuitable for all or certain types of surface coal mining one year after a Federal program is made effective for a State.

(2) When a complete or partial Federal program is promulgated because of a State's failure to implement, maintain, or enforce adequately all or a part of its State program, all applicable portions of the Federal program for the State under this part shall be effective

§ 736.16

immediately upon implementation of the Federal program.

[48 FR 41348, Sept. 14, 1983]

§ 736.16 Federal program termination procedures.

Termination of a Federal program shall be accomplished at the same time and through the procedures for approval of a State program under 30 CFR part 732. No Federal program shall be considered terminated until a State program has been approved by the Secretary in accordance with 30 CFR part 732.

§ 736.17 Consolidation of procedures.

The Director may consolidate public notices, hearings, opportunity for public comment and decisions on the promulgation, revision or termination of a Federal program for a State under this part, with public notices, opportunity for public comment and hearings on the approval, disapproval or withdrawal of a State program under 30 CFR parts 732 through 733.

§ 736.21 General requirements of a Federal program.

(a) Any complete Federal program promulgated or revised by the Director shall include the contents identified in 30 CFR 736.22.

(b) Any partial Federal program shall include all of the contents identified in 30 CFR 736.22 to the extent that those aspects of coal exploration and surface coal mining and reclamation operations within the State are to be regulated by the Director under the partial program and are not to be regulated under the remainder of the State program that continues in effect.

§ 736.22 Contents of a Federal program.

(a) In promulgating or revising any Federal program for a State, the Director shall—

(1) Consider the nature of that State's soils, topography, climate, and biological, chemical, geological, hydrological, agronomic, and other relevant physical conditions;

(2) Include any provisions that are necessary to implement the requirements of the Endangered Species Act of 1973, as amended (16 U.S.C. 531 *et seq.*),

30 CFR Ch. VII (7–1–00 Edition)

the Fish and Wildlife Coordination Act, as amended (16 U.S.C. 661-666c), the National Historic and Preservation Act of 1966 (16 U.S.C. 470), the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. 469a), and other relevant Federal laws imposing duties upon the Secretary; and

(3) Include, if required pursuant to 30 CFR 736.23, any performance standards for the regulation of coal exploration and surface coal mining and reclamation operations more stringent than those otherwise provided for by this chapter and the Act.

(b)(1) Any Federal program for a State, including appropriate portions of a partial Federal program which is promulgated or revised by the Director, shall provide for Federal regulation of coal exploration and surface coal mining and reclamation operations on non-Federal and non-Indian lands within the State in accordance with the requirements of the Act and this Chapter, including, at a minimum, the following provisions: Parts 700, 701, 707, 761, 762, 764, 842, 843, 845, subchapters G, J, K, and M.

(2) An exception to these requirements may be made where there is exploration but no mining in the State. In such a case, the Federal program which is promulgated must regulate coal exploration, but not mining, and shall include, at a minimum, the applicable sections of the following provisions: Parts 700, 701, 761, 762, 764, 772, 773, 775, 815, 842, 843 and 845.

(c) For the purpose of avoiding duplication, the Federal program shall include a process for coordinating the review and issuance of permits for surface coal mining and reclamation operations under the Federal program with any other Federal, State, or local planning or permit process applicable to the operations in the jurisdiction involved, including, but not limited to—

(1) The Clean Air Act, as amended (42 U.S.C. 7401 *et seq.*); Clean Water Act, as amended (30 U.S.C. 1251 *et seq.*); Resource Conservation and Recovery Act (42 U.S.C. 3251 *et seq.*); and

(2) Plans approved by the Administrator of the U.S. Environmental Protection Agency under sections 208 or